

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION**

CARLOS GRIER,

Petitioner

VS.

Warden HILTON HALL,

Respondent

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NO. 5:05-cv-166 (CAR)

ORDER

Before the Court is petitioner **CARLO GRIER’S** notice of appeal, construed as a motion for a Certificate of Appealability (“COA”), from the Court’s July 20, 2010, denying petitioner’s Fed.R.Civ.P. 60(b) motion. Petitioner’s Rule 60(b) motion sought relief from this Court’s July 31, 2009, order denying his 28 U.S.C. § 2254 habeas petition.

The Eleventh Circuit Court of Appeals has held that a petitioner is required to obtain a COA to appeal the denial of a Rule 60(b) motion. *Gonzalez v. Secretary of Dep’t of Corrections*, 317 F.3d 1308, 1312 (11th Cir. 2004). Under 28 U.S.C. § 2253(c), a COA may issue only if the applicant has made a substantial showing of the denial of a constitutional right. This requires a petitioner to demonstrate that “reasonable jurists would find the district court’s assessment of the constitutional claims debatable or wrong.” *See Slack v. McDaniel*, 529 U.S. 473, 478 (2000).

For the reasons stated in this Court’s July 20th order, the Court concludes reasonable jurists could not find that a dismissal of petitioner’s claims was debatable or wrong. Accordingly, it is hereby **ORDERED** that petitioner’s application for a COA be **DENIED**.

SO ORDERED, this 24th day of September, 2010.

S/ C. Ashley Royal
C. ASHLEY ROYAL
UNITED STATES DISTRICT JUDGE

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